



AB 1194: Mental health: involuntary commitment

SUMMARY

This bill clarifies existing law regarding custody of an individual with a mental illness who is a threat to themselves or others.

BACKGROUND

The Lanterman-Petris-Short Act (LPS Act) governs the commitment and treatment of persons with mental illness. The LPS Act allows for the involuntary commitment and treatment of an individual with a mental disorder to ensure public safety, protect the individual and their rights, and to provide prompt evaluation and treatment. In WIC Section 5150, when a person, as a result of a mental health disorder, is a danger to themselves, others or is gravely disabled, that person may be taken into custody by a peace officer, member of the attending staff of an evaluation facility, designated members of a mobile crisis team or other designated professional person, and placed in a facility designated by the county and approved by the State Department of Health Care Services for up to 72 hours.

Legislative intent for Section 5150 was to assess a present risk of harm. AB 1424 (2002, Thomson) added WIC Section 5150.05 clarifying that consideration of psychiatric history and consideration of family input, when relevant, was required to assess a present risk of harm.

Yet, counties, law enforcement jurisdictions, county counsel and officers of superior courts hold varied interpretations of danger. Many hold that danger must be imminent or immediate in order to authorize taking a person into custody. This interpretation is not consistent with the plain meaning of

danger in the statute, not consistent with legislative intent nor does it comply with WIC 5150.05.

Clarifying the correct interpretation of danger will increase access to crisis assessments and care at an earlier stage before a person becomes overtly and imminently dangerous as the legislature originally intended.

This is more effective, humane and less costly than incarcerating 156,003 people to receive mental health care in California jails in 2011-2012, treating 30,000 prisoners entitled to mental health care in prisons, and allowing large numbers of mentally ill homeless to reside on the streets.

THIS BILL

This bill provides that for purposes of determining whether a person, as a result of a mental health disorder, is a danger to others, or to themselves, danger constitutes a present risk of harm that requires consideration of the historical course of a person's mental health disorder and shall not be limited to imminent or immediate risk of harm to others or to themselves.

This bill also requires the application for assessment and evaluation to record whether the historical course of a person's mental disorder was considered in the determination of probable cause for commitment and treatment.

SUPPORT

California Psychiatric Association (sponsor)

FOR MORE INFORMATION

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